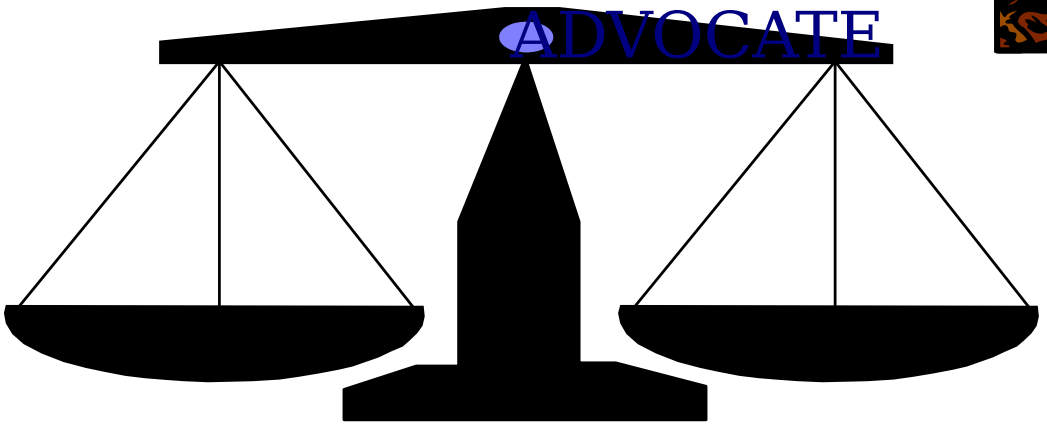
OFFICE OF THE STAFF JUDGE ADVOCATE



LEGAL ASSISTANCE BRIEF

WHO IS A LEGAL ASSISTANCE ATTORNEY ?

- A licensed attorney
- Therefore, attorney-client privilege applies.

WHO CAN WE ASSIST?

- **A. PROVIDE LEGAL ASSISTANCE TO:**
- **1. Active duty and their family.**
- **2. Retired members and family.**
- **3. Reservists > 29 days.**

WHAT WE DO?

1. **DIVORCE / SEPARATION**
2. **NONSUPPORT**
3. **ADOPTIONS / CUSTODY**
4. **LANDLORD / TENANT**
5. **CONSUMER**
6. **POWERS OF ATTORNEY / NOTARY PUBLIC**
7. **WILLS**

•WHAT WE DON'T DO?

- Courts-martial/NJP
- Traffic violations
- DUI and other criminal matters
- Claims against the gover
- Bankruptcy
- Living trusts
- "Business" Advice

DOMESTIC RELATIONS

- SEPARATION AGREEMENTS / DIVORCE
- NONSUPPORT OF FAMILY
- PATERNITY
- ADOPTIONS / NAME CHANGES

SEPARATION AND DIVORCE

- UNCONTESTED AND ACTIVE DUTY ENLISTED ONLY!!!
- SEPARATION AGREEMENTS
- DIVORCE PLEADINGS
- NEW MARINE CORPS MEDIATION PROGRAM (COMING SOON)

NONSUPPORT

- Assist service member or spouse
- Court order or Separation Agreement will always control.
- MCO P5800.16A only provides support for spouse, adopted and natural children.

SUPPORT GUIDELINES

- If NO separation agreement or NO court order, then,
  - LEGADMINMAN (MCO P5800.16 A) – Chapter 15 sets guidelines.
  - Ten days to respond to non-support complaint
  - Must pay greater of a sliding scale of minimum amounts or fraction of BAH
  - E.g., Wife alone receives ½ BAH or $350
    Wife & child receives 2/3 BAH or $572
    Wife and two children receives 4/4 BAH or $699
- Punitive order!
- New calculator on JA website

ADOPTIONS

- BECOME THAT CHILD'S PARENT
- FINANCIALLY RESPONSIBLE UNTIL AGE OF MAJORITY
- OPPOSITE IS TRUE IF YOU GIVE UP CHILD FOR ADOPTION - SEVERS ALL PARENTAL RIGHTS AND RELATIONS
- WE DO STEP PARENT AND AGENCY, NO PRIVATE PLACEMENT

LANDLORD-TENANT AND REAL ESTATE

- REVIEW LEASES
- PROVIDE SAMPLE LEASES
- ASSIST WITH DISPUTES
- REMEDIES UNDER STATE LAW

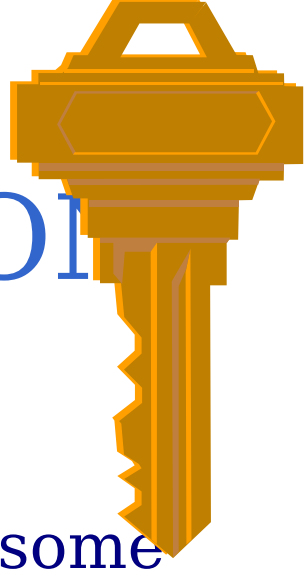
FSC

MORE LEASING ISSUES

SECURITY DEPOSITS

- UP TO TWO MONTHS RENT
- ACCOUNT EARNS INTEREST IF HELD > 13 MONTHS
- LL MUST RETURN DEPOSIT WITHIN 30 DAYS OF TENANT MOVING OUT
  - MINUS DAMAGES, UNPAID RENT, AND REASONABLE CLEANING FEES

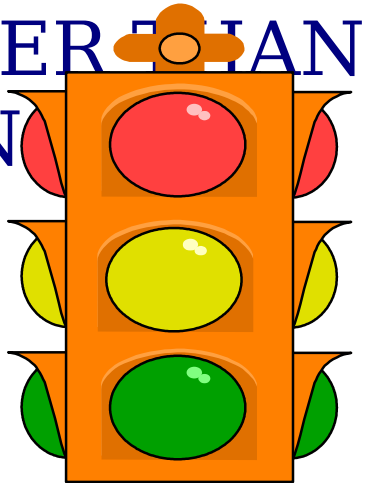
EARLY TERMINATION



- VIRGINIA RESIDENTIAL LANDLORD/TENANT ACT(VRLTA):
  - Leases in all apartment complexes and some single family homes
  - Allows service member to break lease where PCS orders > 35 miles from current home
- NOTE: ALWAYS CHECK LEASE FOR “MILITARY CLAUSE”
- SSCRA DOES NOT APPLY FOR ACTIVE DUTY

MILITARY TENANT RESPONSIBILITIES UNDER VRLTA

- FOR EARLY TERMINATION, TENANT MUST GIVE NOTICE:
  - IN WRITING
  - AT LEAST 30 DAYS PRIOR TO MOVING, BUT,
  - NO EARLIER THAN 60 DAYS PRIOR TO MOVIN



LANDLORD'S RIGHTS UNDER VRLTA

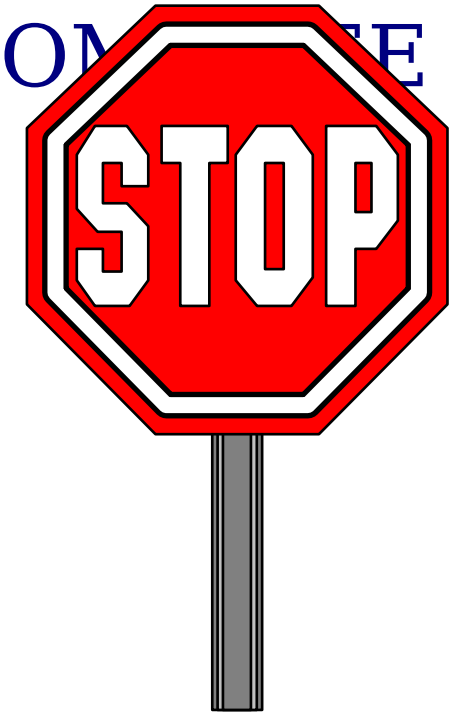
- LANDLORD CAN REQUIRE TENANT TO PAY UP TO ONE MONTH'S RENT TO BR
LEASE!!!

CONSUMER LAW ISSUES

- CONTRACTS
- CARS,CARS,CARS
- DEBT COLLECTION
- IDENTITY THEFT
- DOOR TO DOOR SALES

CONTRACTS

- **<u>BEFORE</u>** YOUR MARINES SIGN ANY LARGE DOLLAR CONTRACT, ESPECIALLY AN AUTO CONTRACT, HAVE THAT MARINE CO[illegible]E US.

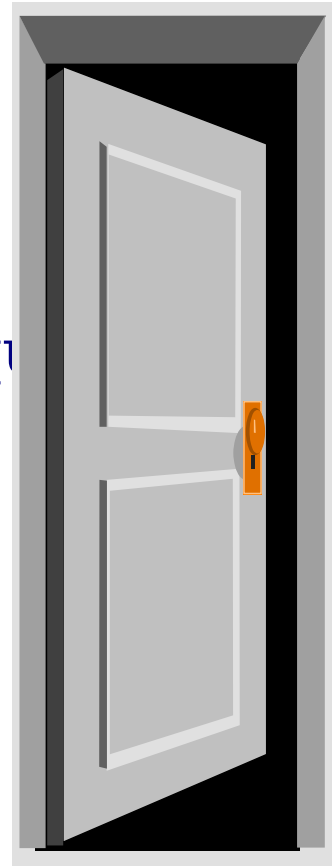


CARS: DOWNFALL OF YOUNG MARINES

- COUNSEL THEM!!
- HAVE LEGAL ASSISTANCE REVIEW DOCUMENTS
- NO THREE DAY RULE
- IF YOU RETURN VEHICLE, YOU ARE STILL RESPONSIBLE FOR DEFICIENCY

DEBT COLLECTION ISSUES

- Debt Collectors may NOT:
  - Harass you
    - No threats / lying
    - No cursing
    - No calls after 9:00 pm
    - May NOT contact after written requ stop
  - $1,000.00 Fine for violations
- Valid Debts won’t go away!!



COMMANDER'S ACTIONS

- ADMINISTRATIVE OR PUNITIVE ACTION
  - SRB ENTRY
  - DENIAL OF REENLISTMENT
  - ADMIN SEPARATION
  - UCMJ ARTICLES 92, 133, 134

COMMANDER'S ACTIONS

- ***NEVER*** INDICATE TO A CREDITOR WHAT, IF ANY, COMMAND ACTION WAS TAKEN IN RESPONSE TO A COMPLAINT OF INDEBTEDNESS
- CAN INFORM OF MARINE'S NEW MILITARY ADDRESS
- ***CANNOT*** INFORM CREDITOR OF MARINE'S HOME ADDRESS

INVOLUNTARY ALLOTMENTS

- DD FORM 2653 INVOL ALLOT APPLICATION
- COPY OF FINAL JUDGMENT
- CREDITOR SENDS TO DFAS
- 25% OF DISPOSABLE PAY (BUT CHILD SUPPORT HAS PRIORTIY)
- DD FORM 2654: 15 DAY RESPONSE, UNLESS CO GRANTS EXTENSION
- 60 DAY RESPONSE BY CO TO DFAS OR PAYMENTS BEGIN

INVOLUNTARY ALLOTMENTS

- IF MEMBER CONSENTS: DFAS STARTS PAYING
- REASON TO CONTEST:
  - SSCRA PROBLEMS
  - MILITARY EXIGENCIES
  - FALSE INFO IN APPLICATION
  - JUDGMENT SATISFIED OR AMENDED
  - LEGAL IMPEDIMENT - BANKRUPTCY

CREDIT PROBLEMS

- REPORTS / BILLING
- IDENTITY THEFT

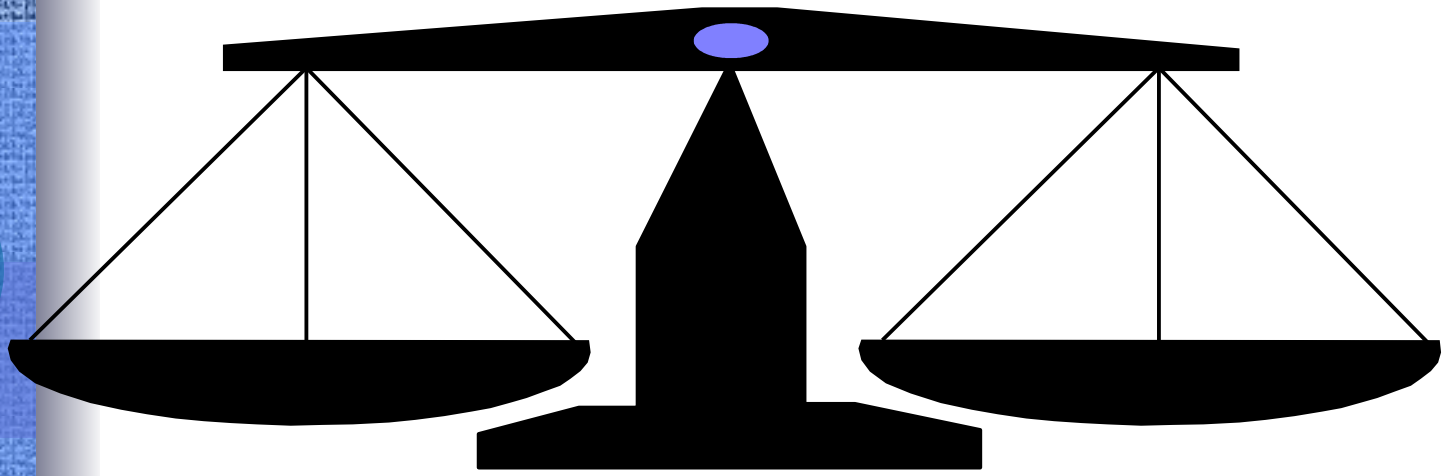
What is DOOR TO DOOR sale?

- Sale, Lease or Rental of Consumer Goods
- $25.00 or more
- Personally solicited by the seller
- At a place OTHER than the permanent business of seller
  - Ex. Sales made at the beach, temporary rented booth, or hotel room

RIGHTS REGARDING DOOR TO DOOR SALES

- Cooling Off Period – right to cancel for 3 business days following purchase
  - Buyer must deliver or MAIL written notice of cancellation in time
  - Buyer must make goods available for return to seller at seller's expense
- Seller MUST provide buyer with notice of buyer's right to cancel
- Seller MUST provide buyer with copy of the sales contract
- CAN'T WAIVE!

SOLDIERS AND SAILORS CIVIL RELIEF ACT

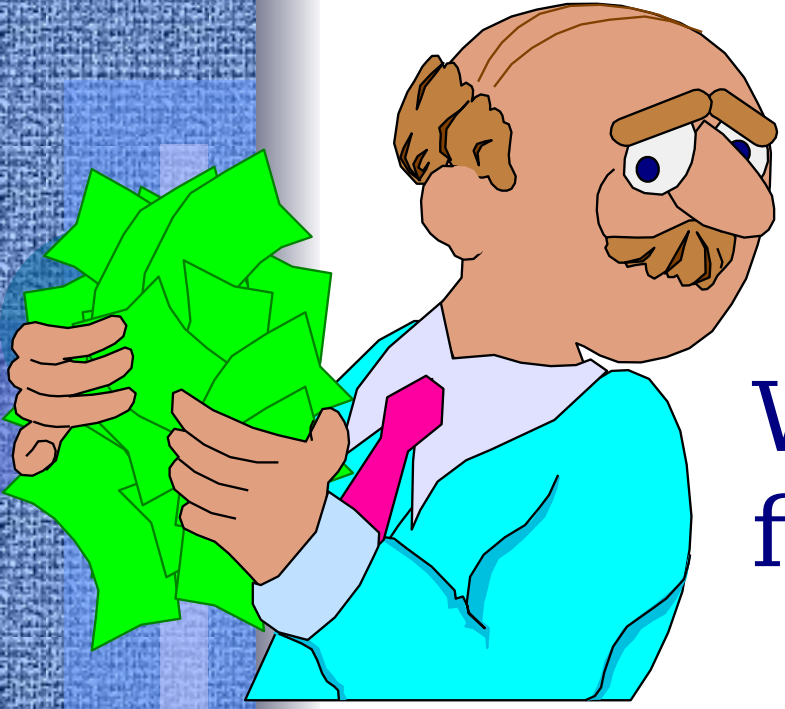


1. REDUCE INTEREST ON PRE-SERVICE DEBT TO 6%.

2. STAYS OF CIVIL JUDICIAL PROCEEDINGS

3. EARLY TERMINATION OF PRE-SERVICE LEASES

4. PREVENTS DOUBLE TAXATION OF MILITARY PAY



TAXATION

We provide electronic ta
filing.

We provide state and federal tax for

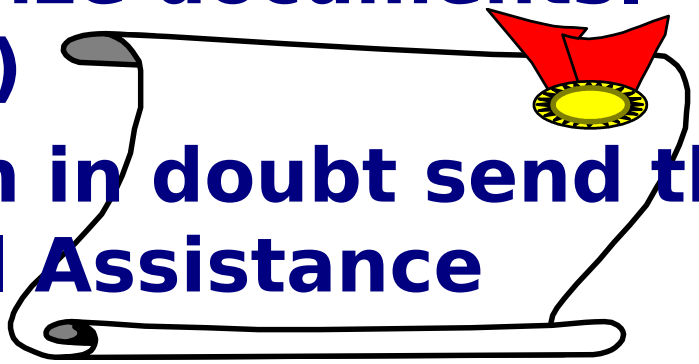
We utilize the Volunteer Income Tax
Assistance Program (VITA).

POWERS OF ATTORNEY

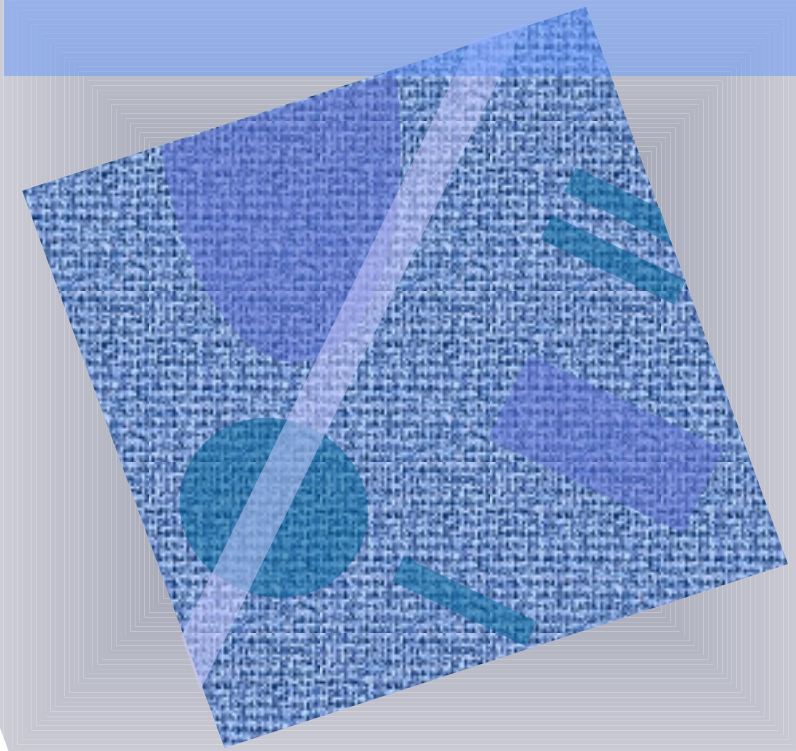
- YOUR AGENT ACTS ON YOUR BEHALF
  - GENERAL
  - SPECIAL
- WALK-IN BASIS

NOTARY PUBLIC

- NOTE: JUDGE ADVOCATES, BN LEGAL OFFICERS, 0-4 OR ABOVE
- COMMANDING OFFICERS
  - **Not all military officers can notarize documents. (936 v 1044)**
  - **When in doubt send them to Legal Assistance**



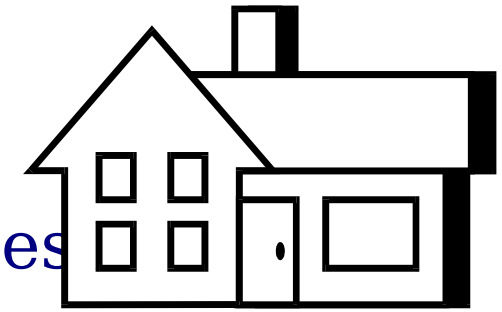
ESTATE PLANNING



Misconceptions

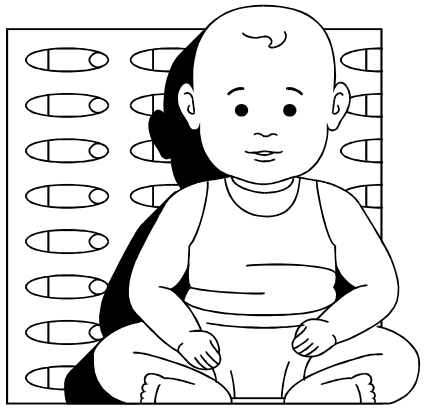
- Only wealthy and elderly need estate planning
- Everyone needs a will

Some Considerations



1. Dispose of property
   - According to your wishes
   - Appoint executor or executrix

2. Appoint guardian for minor children
   - Probate court will appoint if you don't
   - Will raise child & manage money



Additional Considerations

3. Minimize costs and estate taxes

4. Provide for retirement needs

5. Provide family members with information

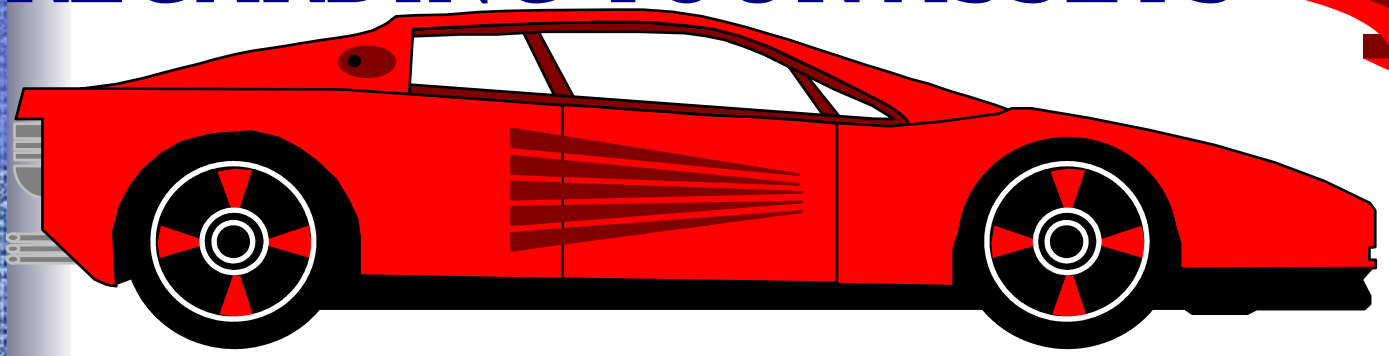
6. Plan for mental or physical incapacity

Will Basics

- A will is a legal declaration of how *you want* your property distributed.
- Names beneficiaries
- Specifies bequests
- Names executor and trustees
- Names guardian for minor children

YOU DO NEED ONE IF:

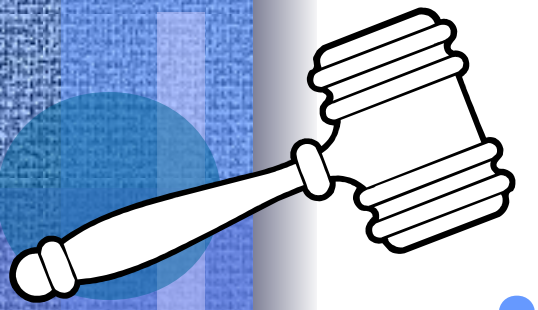
- YOU ARE MARRIED
- YOU HAVE CHILDREN
- YOU HAVE SIGNIFICANT ASSETS
- YOU HAVE SPECIAL WISHES REGARDING YOUR ASSETS



WHO DOESN'T NEED A WILL?

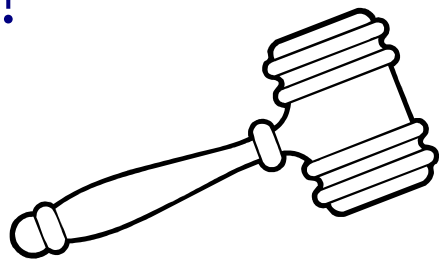
- Young
- Single
- Few assets (Stereo, Car)
- By Law - assets transfer to next of kin

- DON'T TELL EVERY MARINE THEY MUST HAVE A WILL

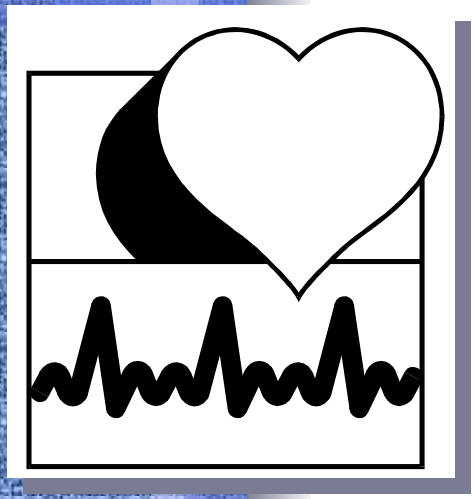


What is Probate?

- The procedures followed in closing estates
- Provides for orderly distribution of property
- Allows creditors to make claims
- Provides for property inventory and appraisal
- MOST ASSETS ARE NOT PROBATABLE!!



Managing Physical Well-Being

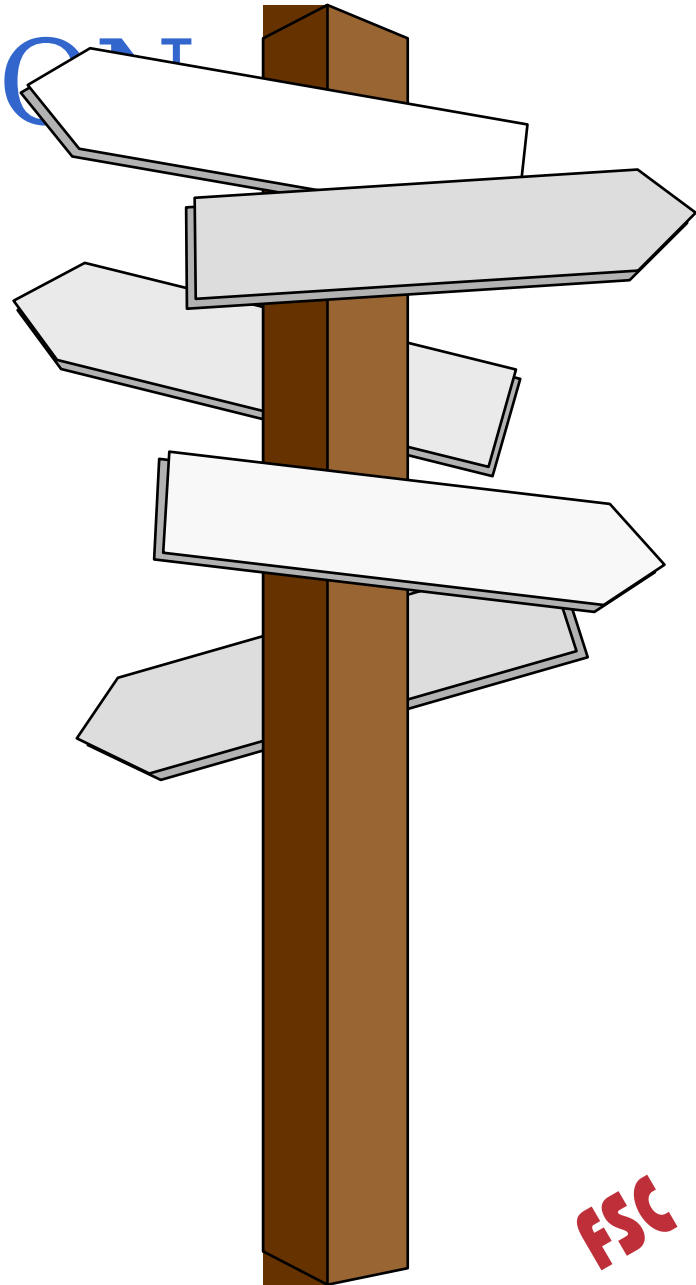


- Living Will
  - Instructions for doctor re: prolonging or postponing death
  - May specify wishes regarding “life sustaining procedures”
- Durable Power of Attorney for Health Care
  - Names someone to make decisions about your care

LOCATION

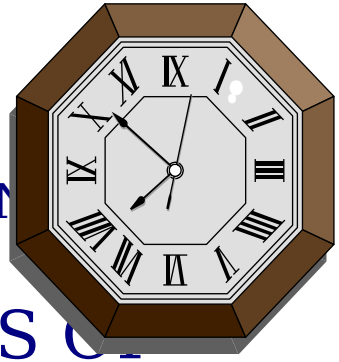
BUILDING # 3095

(LAST RIGHT BEFORE CROSSING BRIDGE TO MCAF AND LA[illegible]N'S GYM)



HOURS OF OPERATION

- MONDAY THROUGH FRIDAY
- 0730-1130, 1300-1700
- APPOINTMENTS MADE ANYTIME BY PHON (784-3122/3123) OR IN PERSON
- WALK-IN ANYTIME DURING HOURS O OPERATION
  - POAs
  - NOTARY SERVICE
- WALK-IN
  - MON / WED / FRI
    - 0800-1100 FIRST COME - FIRST SERVED



ANY QUESTIONS?